IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1601 (M/B) of 2001
(Old No.124/1990)

M/s Tulsi Ram Anokhelal,
Almora through
Ram Krishna Agarwal and one
Another …….. Petitioners

Vs.

State of U.P. and others. …….. Respondents

……

Sri V.K. Bist, learned counsel for the petitioners.
Sri N.B. Tiwari, learned Chief Standing Counsel.

Coram: Hon. S.H. Kapadia, C.J.
Hon. Rajesh Tandon, J.

Date: 20.08.2003

PC

By this writ petition, the petitioners seek to challenge the validity of the circular dated 11.8.1989 by which Commissioner, Assistant Commissioner and Sales Tax Officer were directed to take proceedings for imposition of tax on the sale of copper sheets and circles as unclassified item @ 8%. Being aggrieved by this circular, the writ petition has been filed.

In this case vide showing to the Circular Letter dated 11.8.1989, there was reopening of assessment. The petitioners, however, have not exhausted alternative remedy under the Act.

The petitioners submit that their case is squarely covered by the judgment of the Allahabad High Court in Sales Tax Revision No. 48 of 1992 decided on 24th March, 24.3.1994 in the case of M/s Anoruddin Moinuiddin Ayuyaganj, Lucknow.

As stated above, the petitioners have not exhausted the alternative remedy. The petitioners have not filed appeal against the order reopening the assessment. Therefore, we are directing the petitioners to exhaust the alternative remedy. The petitioners may cite the above judgment of the Allahabad High Court before the appellate authority.

Subject to the above, writ petition is dismissed. No order as to costs. is disposed of.

(Rajesh Tandon, J.) **(S.H. Kapadia, C.J.)**

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